

SPECIAL CIVIL APPLICATION NO.2903/88.

Date of Decision:6.2.1996

FOR APPROVAL AND SIGNATURE

THE HON'BLE MR. JUSTICE N N MATHUR

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
5. Whether it is to be circulated to the Civil Judge ?

Mr A J Shastri, Advocate for the petitioner

Mr B Y Mankad, A.G.P. for the State

CORAM : N N MATHUR, J.
(February 6, 1996)

ORAL JUDGMENT

The petitioner, Vidya Vikas Primary School, run by the Vidya Vikas Primary Education Trust has challenged the action of the respondent in not granting to its 15 Teachers the grade of Primary Teachers (trained) on the ground that the said 15 Teachers possess the qualification of B.Ed and not of PTC.

2. The contention of the petitioner is that the said Teachers are more qualified than the required, inasmuch as the qualification of B.Ed. is higher than the

qualification of PTC. It is stated that the PTC is a Certificate Course after 10th standard whereas B.Ed. is a Degree Course after Graduation.

3. Mr B Y Mankad, learned AGP has tendered an affidavit-in-reply dated 13.10.1988 during the course of arguments. Mr D N Mehta, Under Secretary, Education Department has refuted the contention of the petitioner that the B.Ed. Teachers are entitled to the same salary as trained Primary Teachers having qualifications of PTC. It is stated that it is only persons having qualifications of PTC can be employed as trained Teachers. Prior to January, 1977. some primary Teachers were employed with B.Ed. qualification, but without the qualification of PTC and as such they were required to acquire PTC qualification. However, by Resolution dated 1.7.1978, it was decided to exempt the Graduate Teachers with B.Ed. qualification employed on or before 1.1.1977 from undergoing training for PTC. It is further stated that only those Graduate Teachers with B.Ed. qualification, who had been employed before January 1977 in Primary Schools have been exempted from undergoing the PTC training in view of the said Government Resolution, such Graduate Teachers with B.Ed. qualifications appointed in any Primary school on or after 1.1.1977 will not be exempted from undergoing the PTC training and every such Teacher who did not possess PTC qualification will be treated as untrained Teachers in Primary Schools.

4. Mr A J Shastri, learned Advocate for the petitioner submits that the controversy, as raised by the respondent, has been settled by the decision of this Court in SATISHCHANDRA BHAILALBhai SHAH vs. STATE OF GUJARAT, reported in 1984(1) GLR 655. I have gone through the said decision of this Court. The contentions raised by the respondent has been answered against them in the said decision. In fact, there cannot be any controversy as the reasoning advanced by the respondent can be said to be due to some bureaucratic reasoning, but it is against common sense. This Court said thus

"It is not disputed that the graduates who have obtained B.Ed. degree are recognised as teachers for teaching Primary Teaching trainees. Therefore, a person who is qualified to teach Primary Teaching Certificate trainees cannot be said to be not qualified for teaching primary school students. If the petitioners are possessing higher qualification, on that ground they cannot be denied lower posts of trained primary teachers."

Further, the Court also found no rationale behind fixing the cut-off date being 1.1.1977 In view of the aforesaid, this Special Civil Application deserves to be allowed.

5. Before parting with, it is to be noticed that the controversy involved in the present case has been settled by the aforesaid decision of this Court rendered on 12.12.1983. Inspite of that the Government has taken the impugned decision on 21.5.1988 and their stand has been reiterated in the affidavit filed on 13.8.1988 by Mr D N Mehta, the Under Secretary, Education Department. Thus, it clearly is a matter of disobedience of the directions of this Court. This sort of attitude of the public authorities is not only torturous to the people but also add to the already overburdened judiciary.

6. This Special Civil Application is allowed and the impugned order at Annexure 'A' dated 21.5.1988 is quashed and set aside.

The respondents are directed to pay grant for the salaries to Graduate B.Ed. Teachers in the petitioner School from the date it is due with usual interest thereon. The respondent will pay cost of this petition to the petitioner which is assessed as Rs.1,000/-.

Rule made absolute accordingly.

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